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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,576	09/22/2003	Trevor Timothy Morris Jones	TJONES-001	9648
34111	7590	08/24/2004	EXAMINER	
STEPHEN J. LEWELLYN 933 OLEANDER WAY SOUTH SUITE 3 SOUTH PASADENA, FL 33707			LE, MARK T	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,576

Applicant(s)

JONES, TREVOR TIMOTHY
MORRIS

Examiner

Mark T. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is responsive to the amendments filed on June 30, 2004.
2. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Denker (US 2,677,502).

Denker discloses sheets of traction mats having all the features as recited in the instant claims, including sheets of an expanded metal 12R, 12L, each of which has a percentage of area openings, and the size of the openings that are readable as being in the instant claimed "about" ranges. Noted that the open area percentage of an expanded sheet metal does in fact correspond to the size of the openings of the expanded sheet metal, i.e. a smaller opening size corresponds to a smaller open area percentage, and a larger opening size corresponds to a large open area percentage. In the case of Denker, note column 5, lines 12-30, wherein Denker prefers that the size of the openings should not be too large nor too small, which would be translated into that Denker prefers a range of open area percentages that is not too large nor too small. Accordingly, Denker obviously suggests a middle range (which is not too large nor too small) that appears to at least partially fall in or correspond to the instant claimed middle range of "about 40%-60%".

Applicant should further note that the word "about" used in the instant claims refers to an approximation, and the range of an approximation is considered to be relative.

3. Claims 4, 6 and 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denker (US 2,677,502).

Denker is applied above.

Regarding the instant claimed method of forming by cutting from a larger sheet by bond shearing, as recited in instant claims 6, 10 and 13, note that such method of forming is well known in the art of metal workings/formings (Official Notice is taken), and it would have been obvious to one skilled in the art to form the sheets of Denker from a well known method for conveniences.

Regarding the instant claimed sheets having different open area percentages, as recited in instant claim 8, note that in case of a small scale production, it would have been obvious to one skilled in the art to form the traction sheets of Denker by expanding the stock material individually and manually so as to avoid the cost of expensive mass production equipment. Accordingly, such manual and individual sheet forming operations would be more likely to cause inconsistencies in the production, i.e. variations in open area percentages in individual sheets, as broadly recited in the instant claim.

Applicant's argument on the basis that "... patentability should not be negative in which the invention was made" is deemed to be misapplied because the examiner merely points out an inherent factor in a small scale production; wherein, the instant claimed feature of variations in open area percentages would inherently be resulted from manual productions.

Regarding the instant claimed material hardness, as recited in instant claims 4 and 11, note that the structure of Denker is designed to operate in similar environments of mud, ice, and snow as that of the present invention; therefore, as a matter of routine

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experimentation, it would have been obvious to one skilled in the art to select a material for making the structure of Denker by experimentations with known materials so as to arrive to a material with a hardness (including a Mohs hardness of about 1.5-3) that is suitable for use with ice, snow, and/or mud.


4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 703-308-3663. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark T. Le
Primary Examiner
Art Unit 3617

mle
8/19/04